

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MARCH 16, 2005**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of March 16, 2005, was called to order by Mayor Beckman at 6:00 p.m.

Present: Council Members – Hitchcock, Johnson, Mounce, and Mayor Beckman

Absent: Council Members – Hansen*

Also Present: City Manager King, Deputy City Attorney Magdich, and City Clerk Blackston

*NOTE: Council Member Hansen was absent due to his attendance at the San Joaquin Council of Governments One Voice event in Washington D.C.

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual Litigation: Government Code §54956.9(a); one case; Lodi Professional Firefighters v. City of Lodi, California (PERB Case No. SA-CE-293-M)
- b) Threatened litigation: Government Code §54956.9(b); one case; potential suit by Tim Thalken relating to disability discrimination
- c) Prospective acquisition of a portion of real property located at 720 East Lodi Avenue (APN #047-450-13), Lodi, California; the negotiating parties are the City of Lodi and John and Evangelia Zarefakis; Government Code Section 54956.8 (PW)
- d) Conference with legal counsel – Initiation of litigation regarding 2019 Kenway Court, Lodi, CA (APN 029-160-36); one potential case; pursuant to Government Code §54956.9(c)

C-3 ADJOURN TO CLOSED SESSION

At 6:00 p.m., Mayor Beckman adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:58 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:05 p.m., Mayor Beckman reconvened the City Council meeting, and Deputy City Attorney Magdich disclosed that in regard to Items G2 (a), (b), (c), and (d) direction was received from Council.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of March 16, 2005, was called to order by Mayor Beckman at 7:05 p.m.

Present: Council Members – Hitchcock, Johnson, Mounce, and Mayor Beckman

Absent: Council Members – Hansen*

Also Present: City Manager King, Deputy City Attorney Magdich, and City Clerk Blackston

*NOTE: Council Member Hansen was absent due to his attendance at the San Joaquin Council of Governments One Voice event in Washington D.C.

B. INVOCATION

The invocation was given by Pastor Frank J. Palmer, Missionary Baptist Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Beckman.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

D-3 (a) Police Chief Adams presented the following Police Appreciation Awards for 2004.

Recipients:

Hans VanNoord, Silver Star and Meritorious Service Award

Tod Patterson, Bronze Star

Hettie Schaeffer, Bronze Star

Steve Maynard, Officer of the Year

Joy Dawson, Volunteer of the Year

Adam Lockie, Life Saving Certificate

Kevin Kent, Life Saving Certificate

Steve Maynard, Life Saving Certificate

Marilyn Haro, Chief's Award

Virginia Elder, Chief's Award

Stan Sogsti, Unit Citation

Bud Shropshire, Unit Citation (*posthumously*)

Kerry Craig, Unit Citation

Ron Craig, Unit Citation

Chuck Harman, Unit Citation

Charlie Gardella, Unit Citation

Chris Jacobson, Unit Citation

Ron Swearingin, Citizen Commendation

Carol Meehleis, Citizen Commendation

Earline Lund, Citizen Commendation

D-3 (b) Hutchins Street Square (HSS) Foundation Chairman, John Ledbetter, presented Mayor Beckman with a check in the amount of \$50,000 as payment toward the HSS Certificate of Participation (COP) debt. He reported that this amount brings the Foundation's contributions since 1980 to a total of \$4.9 million and to \$3.2 million against the COP offset. He recalled that at one time the City offered a matching program, whereby, for any money the Foundation raised the City would match it dollar for dollar. Later, the match was reduced to fifty cents on the dollar. Mr. Ledbetter asked that Council consider reinstituting a matching program.

D-3 (c) Rob Lechner, Manager of Customer Service and Programs, announced that the Lodi Energy Smart Workshop on the topic of "California's Energy Future and Developing Sustainable Energy Resources" would be held on March 21.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Hitchcock, Mounce second, approved the following items hereinafter set forth **except those otherwise noted** by the vote shown below:

Ayes: Council Members – Hitchcock, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hansen

E-1 Claims were approved in the amount of \$2,559,046.48.

E-2 The minutes of February 22, 2005 (Shirtsleeve Session), February 22, 2005 (Special Meeting), March 1, 2005 (Shirtsleeve Session), March 1, 2005 (Special Meeting), and March 2, 2005 (Regular Meeting) were approved as written.

- E-3 Adopted Resolution No. 2005-45 approving the plans and specifications and authorizing advertisement for bids for Lodi Avenue Overlay (Lower Sacramento Road to Ham Lane) / Pacific Avenue Extension (Walnut Street to Lodi Avenue) Project; authorizing the City Manager to execute all necessary agreements to implement the project and to award or reject the contract up to \$815,000; and appropriating funds.
- E-4 Adopted Resolution No. 2005-46 approving the specifications, authorizing advertisement for bids as required, and further authorizing the City Manager to award purchases of \$25,000 or less for 600V insulated electrical cable through fiscal year 2005-06.
- E-5 Adopted Resolution No. 2005-47 authorizing the purchase of fire panels to equip the Lodi Police Department patrol fleet of 25 Ford Crown Victoria/Police Interceptors from F.I.R.E. Panel LLC, of Scottsdale, AZ, in the amount of \$9,600 from the State COPS Grant.
- E-6 Adopted Resolution No. 2005-48 awarding the contract for Lower Sacramento Road Widening Project (Kettleman Lane to Harney Lane) to George Reed Construction, Inc., of Lodi, in the amount of \$2,623,300, authorizing the City Manager to execute multiple contracts, and appropriating funds in the amount of \$3,022,600.
- E-7 Approved the task order to Schlumberger Master Agreement for preparation of Water Supply Assessment Report for the Westside Annexation and Southwest Gateway Annexation projects.
- E-8 Adopted Resolution No. 2005-49 authorizing the City Manager to execute a professional services agreement with San Joaquin County Resource Conservation District for a State Water Resources Control Board Proposition 13 Watershed Protection Grant, Agreement No. 04-115-555-0 titled, "Lower Mokelumne River Watershed Stewardship Plan."
- E-9 Authorized the professional services agreement Amendment #2 with PMC Consultants in the amount of \$36,882 for the preparation of the environmental impact report for the commercial development at the southwest corner of Lower Sacramento Road and Kettleman Lane.
- E-10 Adopted Resolution No. 2005-50 approving the application to apply for re-certification grant funds to operate the Lodi LOOK after school programs at Heritage, Lawrence, and Needham elementary schools for a three-year period (July 1, 2005 to June 30, 2008) under the After School Education and Safety Program through the California Department of Education.
- E-11 Authorized the City Manager to approve a Memorandum of Understanding between San Joaquin County law enforcement agencies for the purpose of establishing a data sharing network referred to as the Justice Data Link.
- E-12 "Adopt 'Open Session Resolution' approving Guild settlement" was ***pulled from the agenda pursuant to staff's request.***
- E-13 Adopted Resolution No. 2005-51 appropriating funds in an amount up to \$5,550 to the San Joaquin County Registrar of Voters for costs associated with verification of each signature on the Fire and Facilities Sales Tax Initiative petition.
- E-14 Set public hearing for April 6, 2005, to introduce ordinance to repeal and re-enact Chapter 15.20 (Fire Code) of the Lodi Municipal Code and to adopt a resolution establishing a master fee schedule for cost recovery for services provided by the Lodi Fire Department.
- E-15 Set public hearing for April 20, 2005, to consider resolution adopting water rate increase.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Mounce noted that on March 11 she attended a California Environmental Quality Act seminar, which she found to be a great learning experience.
- Mayor Beckman reported that today he participated in a Leadership Stockton Alumni forum regarding growth issues. At this meeting, Stockton Mayor Chavez indicated that he would like to see the 2x2x2 Greenbelt Committee reactivated.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King announced that a Community Fiscal Forum would be held on March 30 at the Library Community Room and he encouraged everyone to attend.

Council Member Johnson emphasized the importance of citizen involvement in the budget process. He hoped that the Fiscal Forum would be well advertised.

I. PUBLIC HEARINGS

- I-1 NOTE: Due to a potential conflict of interest related to his spouse's employment with the Lodi Conference and Visitors Bureau, Mayor Beckman abstained from discussion and voting on this matter and vacated his seat at the dais at 8:00 p.m.

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Pro Tempore Hitchcock called for the public hearing to consider amending Ordinance No. 1753, which establishes the Lodi Tourism Business Improvement District (LTBID) and method of levying and collecting assessments within the LTBID boundaries.

Finance Director Krueger explained that the proposed amendment to the ordinance is to bring into unison the collection date for both the transient occupancy tax and the LTBID assessment. Inadvertently, the original ordinance established that the payment of the assessment would be 20 days after the end of the quarter. The payment date for transient occupancy tax is at the end of the month.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

NOTE: No written protests were received by the City Clerk's Office on this matter.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Hitchcock second, introduced Ordinance No. 1756 amending Lodi Municipal Code Title 12 – Streets, Sidewalks, and Public Places, Section 12.07.130, relating to Lodi Tourism Business Improvement District levy of assessment—collection, delinquency, and penalty. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Johnson, and Mounce
Noes: Council Members – None
Absent: Council Members – Hansen
Abstain: Council Members – Mayor Beckman

NOTE: Mayor Beckman returned to the dais at 8:03 p.m.

- I-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Beckman called for the public hearing to consider the Planning Commission's recommendation to amend various sections of the Lodi Zoning Ordinance that deal with the appeal process for planning decisions (proposed amendment will establish a standard time period to file all planning appeals and will also add language to clarify the appeal process).

Community Development Director Bartlam reported that the Lodi Municipal Code provides for a variety of appeal processes that relate to various planning and land use decisions that are made both at staff, Site Plan and Architectural Review Committee, and Planning Commission levels. He noted that over the years the zoning code has been amended and each one of these processes carries with it a different timeframe for appeals. The Planning Commission conducted a public hearing on the proposed amendments and is supportive of the request.

Mayor Pro Tempore Hitchcock and Council Member Mounce felt that the seven-day appeal period was too short.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

Discussion ensued regarding the typical length for appeal periods.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Hitchcock second, introduced Ordinance No. 1757 amending Lodi Municipal Code Title 17 – Zoning, by repealing and reenacting Sections 17.72.110, 17.73.070, 17.74.070, and 17.81.070; repealing in their entirety Sections 17.84.050 and 17.84.060; adding Chapter 17.88 relating to appeals; and further amending the draft ordinance language from a seven-day appeal period to a ten-day appeal period. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hansen

- I-3 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Beckman called for the public hearing to consider approving the Countywide Master Annexation Agreement with San Joaquin County and adoption of the County Facility Fee Program.

Community Development Director Bartlam recalled that this topic was discussed at the August 3, 2004, Shirtsleeve Session. The agreement pertains to distribution of property taxes upon annexation of land from the County into the City. The previous agreement expired July 2003. Since that time, any annexations that have been before the Local Agency Formation Commission have had to negotiate the property tax split independently with the County. The prior agreement provided for 10% of the County's share of the property tax to flow to the City; the proposed agreement increases it to 20%. The County is requesting that the City adopt a County Facility Fee, which would be similar to the City's impact mitigation fees charged on new development of capital projects. The Facility Fee would go toward facilities that are provided for the benefit of all County residents and will be collected as part of all development activity. Staff recommends that Council adopt a transaction fee to cover Finance Department staff time for collecting the fee and transferring it to the County. Community Development and Public Works staff reviewed the nexus report prepared by the County and feel that it is technically complete.

In reply to Mayor Beckman, Deputy City Attorney Magdich confirmed that there was an indemnification clause in the agreement.

In answer to Mayor Pro Tempore Hitchcock, Mr. Bartlam reported that to date Ripon, Tracy, and Lathrop have approved the documents and Manteca, Stockton, and Escalon have scheduled the matter for a public hearing. City Manager King stated that the consensus of city managers is that the agreement needs to be adopted in order for cities to move forward with annexations.

In response to Council inquiries, Rich Laiblin, Senior Deputy County Administrator, stated that if the County canceled the property tax sharing agreement, cities could choose to rescind the County Facility Fee. He explained that collection of monies and the uses to which they are put are subject to annual review. Fees collected under AB1600 must be justified after five years. The agreement states that either party can terminate the agreement upon six months written notice. If the master agreement were canceled, then the situation which exists now would reoccur, i.e. where each annexation would have to have its own project specific annexation agreement to go forward.

Mayor Beckman suggested that the County Facility Fee component sunset in seven years to coincide with the property tax agreement, to which Mayor Pro Tempore Hitchcock agreed.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION #1 / VOTE:

The City Council, on motion of Mayor Beckman, Hitchcock second, Introduced Ordinance No. 1758 amending Title 15, "Buildings And Construction," of the Lodi Municipal Code by adding Chapter 15.66 relating to County facilities fees and adding a new section with language to terminate the ordinance simultaneously with the Countywide Master Annexation Agreement and the County Facility Fee Program. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hansen

Deputy City Attorney Magdich reported that Council received a "blue sheet" (filed) resolution establishing County Facilities Fees for all future development within the City of Lodi, which she pointed out would not be effective until 60 days after the adoption of a comparable resolution by the County Board of Supervisors.

MOTION #2 / VOTE:

The City Council, on motion of Mayor Beckman, Hitchcock second, adopted Resolution No. 2005-52 establishing County facilities fees for all future development within the City of Lodi. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hansen

J. COMMUNICATIONS

- J-1 On recommendation of the City's contract administrator and Human Resources staff, the City Council, on motion of Council Member Hitchcock, Beckman second, rejected the following claim by the vote shown below:
Ayes: Council Members – Hitchcock, Johnson, Mounce, and Mayor Beckman
Noes: Council Members – None
Absent: Council Members – Hansen
a) Robert A. Haro, date of loss 8/20/04
- J-2 The following postings/appointments were made:
a) The City Council, on motion of Council Member Hitchcock, Beckman second, directed the City Clerk to post for the following vacancy by the vote shown below:
Ayes: Council Members – Hitchcock, Johnson, Mounce, and Mayor Beckman
Noes: Council Members – None
Absent: Council Members – Hansen
Lodi Arts Commission
Olympia Hostler Term to expire July 1, 2006
- J-3 Miscellaneous
a) City Clerk Blackston presented the cumulative Monthly Protocol Account Report through February 28, 2005.

RECESS

At 8:44 p.m., Mayor Beckman called for a recess, and the City Council meeting reconvened at 8:52 p.m.

K. REGULAR CALENDAR

K-1 "Economic Development 'Team Lodi' Report"

Deputy City Manager Keeter recalled that in 1993 the Council created the Economic Development Coordinator position primarily for downtown revitalization and it evolved into business attraction, retention, and expansion throughout the City. She reviewed the new businesses which have come to Lodi since that time as outlined in the staff report. When the Economic Development Coordinator position became vacant a year and a half ago, the functions were divided between Ms. Keeter, the Community Development Director, and Janet Hamilton, Management Analyst. Recently, staff involved in this function remarketed themselves as "Team Lodi."

City Manager King explained that economic development evolves with the community. Team Lodi's emphasis will continue in the industrial area, as well as retail and the downtown. In addition, a focused effort to promote Lodi as a tourist destination will be made. Mr. King stated that when the City's fiscal condition improves he would like to have the Economic Development Coordinator position filled. He stated that Team Lodi now consists of himself, the Deputy City Manager, Management Analyst Janet Hamilton, Manager of Customer Service and Programs Rob Lechner, the City Engineer, and the Directors of Electric Utility, Community Development, and Public Works. On occasion, there may be ad hoc members assigned to Team Lodi. He anticipated that economic development would be incorporated as one of the elements of the City's General Plan.

Janet Hamilton, Management Analyst, reported that the Information Systems Division has developed a database and web page to assist in compiling and distributing information. Team Lodi will be working closely with the San Joaquin Partnership, as well as commercial and industrial brokers in Lodi and the County. She noted that the library has partnered with the Small Business Development Center in Stockton and is offering free workshops.

Rob Lechner, Manager of Customer Service and Programs, reported that the Lodi PACE program's slogan is to "Keep Pace with Lodi." The acronym "PACE" stands for profitability and competitiveness for employers. The goal of this program is to assist existing businesses, retain them, and help them grow. The "Lodi Tool Box" is a listing of products, programs, and services that all City departments have to offer. The "Lodi Business Incubator" will identify existing buildings in which entrepreneurs can operate out of temporarily at a reduced rent to include utilities and office equipment. Team Lodi will also be promoting products made by Lodi businesses. When a new or prospective customer expresses an interest in the City, Team Lodi will be quickly assembled to share the goods and services Lodi has to offer. In addition, the Team will help existing businesses that are encountering challenges.

Council Member Johnson and Mayor Pro Tempore Hitchcock voiced support for the Team Lodi concept.

MOTION/ VOTE:

There was no Council action taken on this matter.

- K-2 "Adopt resolution authorizing the City Manager to allocate Public Benefit Program funds in the amount of \$31,340 for the Lodi Helping Hands Project II; and authorizing the City Manager to execute a contract with the Rising Sun Energy Center to assist in the coordination and implementation of this project"

Rob Lechner, Manager of Customer Service and Programs, reported that the Rising Sun Energy Center will assist Electric Utility in providing free energy efficiency improvements and services to 200 low-income families in Lodi over the next year. The Center will train an energy specialist who will earn \$45 per home to retrofit residences with energy efficient products. He noted that the Center was successful in securing a \$70,000 grant from Pacific Gas and Electric to assist in this endeavor.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Johnson second, adopted Resolution No. 2005-53 authorizing the City Manager to allocate Public Benefit Program funds in the amount of \$31,340 for the Lodi Helping Hands Project II; and authorizing the City Manager to execute a contract with the Rising Sun Energy Center to assist in the coordination and implementation of this project. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hansen

- K-3 "Adopt resolution approving operation and maintenance agreement for water main abandonment at 104 East Turner Road"

Public Works Director Prima explained that this item concerns an abandonment of a water main located behind industrial property at 104 East Turner Road. The issue arose after staff found a building that had been constructed over the water main. It is believed that the water main was installed in the late 1940s. He stated that because of the line on Stockton Street, the line in the back of the building is redundant. Due to its age, limited access to City crews, and the lack of a recorded easement, it is a main that staff recommends be abandoned. The main will still provide service to the fire hydrants, but it would no longer be a part of the publicly maintained system. The applicant has installed the appropriate backflow devices. Mr. Prima stated that the main has no economic value to the City.

In reply to questions posed by Council Member Johnson, Mr. Prima explained that it is standard practice in new developments for on-site hydrants in commercial and industrial projects to be privately owned and maintained. The Lodi Fire Department is aware of staff's recommendation on this matter. The operations and maintenance agreement requires the property owner to maintain the hydrants.

PUBLIC COMMENTS:

- Brent Boblitt, Project and Sales Manager for Epic Plastics, confirmed that the Fire Department has access to the fire hydrant. He explained that the building construction evolved over time and they now have the proper building permits.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, adopted Resolution No. 2005-54 approving the operation and maintenance agreement for water main abandonment at 104 East Turner Road. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hansen

- K-4 “Adopt resolution requesting Congress to preserve the existing Community Development Block Grant program”

City Manager King reported that the City has been asked by the League of California Cities and the National League of Cities to adopt a resolution supporting full funding of the Department of Housing and Urban Development's Community Development Block Grant (CDBG) program.

Mayor Beckman voiced opposition to the request.

Council Member Mounce was in favor of the resolution as she felt that the CDBG program makes a significant impact on low-income neighborhoods.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Johnson second, adopted Resolution No. 2005-55 requesting Congress to preserve the existing Community Development Block Grant program. The motion carried by the following vote:

Ayes: Council Members – Hitchcock, Johnson, and Mounce

Noes: Council Members – Mayor Beckman

Absent: Council Members – Hansen

L. ORDINANCES

- L-1 Following reading of the title of Ordinance No. 1755 entitled, "An Ordinance of the City Council of the City of Lodi Repealing Lodi Municipal Code Title 8 Health & Safety Chapter 8.24 in its Entirety Relating to Comprehensive Municipal Environmental Response and Liability (MERLO)," having been introduced at a regular meeting of the Lodi City Council held March 2, 2005, the City Council, on motion of Council Member Hitchcock, Johnson second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Hitchcock, Johnson, Mounce, and Mayor Beckman

Noes: Council Members – None

Absent: Council Members – Hansen

Abstain: Council Members – None

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 9:42 p.m.

ATTEST:

Susan J. Blackston
City Clerk